



U.S. Immigration
and Customs
Enforcement

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News Release

TEXAS MAN SENTENCED TO 46 MONTHS IN JAIL AND ORDERED TO PAY \$1.54 MILLION DOLLARS IN RESTITUTION FOR ILLEGALLY SELLING COPYRIGHT PROTECTED SOFTWARE AND VIDEO GAMES OVER THE INTERNET

Washington, D.C. -United States Attorney Kenneth L. Wainstein, Assistant Attorney General Alice S. Fisher, U.S. Department of Justice, Criminal Division, Assistant Director in Charge Michael A. Mason, FBI Washington Field Office, and Special Agent inCharge Allan Doody, U.S. Department of Homeland Security, Immigration and Customs Enforcement, announced that Dashiell Ponce de Leon, 26, of Richmond, Texas, was sentenced late yesterday by the Honorable Gladys Kessler, United States District Court Judge, to 46 months of incarceration, a two-year term of supervised release, and an order to pay restitution in the amount of \$1,154,395.85.

The sentence arose in connection with Ponce de Leon's earlier guilty plea in June 2005 to Criminal Copyright Infringement, in violation of 18 U.S.C. § 2319(b)(1) and 17 U.S.C. § 506(a)(1) and (b), arising from his illegal Internetsales of over \$1 million of copyright protected software and video games from web sites he owned and operated. In addition, a provision of the plea agreement in this case required Ponce de Leon to forfeit to the United States all of his computer equipment, peripherals, and all digital media containing infringing copies of copyright protected works which were seized by federal agents from residences and his business pursuant to duly authorized search warrants. Focusing on the harm done to the copyright industries, in imposing sentence, the court noted that the sentence in this case was warranted based upon the need for adequate deterrence of this defendant and others who might be tempted to do as he had done and also the protection of the public.

According to information presented to the Court by Assistant U.S. Attorney Sherri L. Schornstein, from approximately December 1, 2002, through May 2003, Ponce De Leon owned and operated the web sites: "Powerbackups Ultimate Software Backup Resource" (www.Powerbackups.com) and "Softworks #1 Software Backup Service" ("www.Softworks.com"). From these web sites, he advertised for sale at prices far below the manufacturers' suggested retail prices, over 200 software and video game titles, all of which were protected by copyright. Legitimate copies of the software programs and games listed for sale on the two web sites had retail values ranging from \$30.00 to over \$26,000.00 per copy. Neither defendant Ponce De Leon nor any one doing business under the named web sites www.softworks.com and www.powerbackups.com were authorized by the copyright owners to reproduce, sell or distribute the software or video game titles advertised for sale on the web sites.

Numerous titles were purchased by a Special Agent of the Federal Bureau of Investigation, acting in an undercover capacity, and shipped by Ponce de Leon to the District of Columbia and elsewhere, including Macromedia Flash MX (retail value \$499.00), Microsoft Office XP Premium (retail value \$579.00), and Microsoft Windows XP Pro (retail value \$299.00), Adobe Photoshop 7 (retail value \$609.00), Autodesk Building Systems (retail value \$4,016.65), Lightwave 6 (retail value \$2,495.00), MS Office XP Premium (retail value \$579.00), and NBA Live 2003 (retail value \$39.99), Adobe Golive 6 (retail value \$399.00), Lightwave 6 (retail value \$2,495.00), Mastercam 8 (retail value \$12,900.00), Macromedia Studio MX (retail value \$899.00), and Macromedia Flash 5 (retail value \$499.00), Autodesk Autocad 2004 (retail value \$3,750.00), Harry Potter 2 (retail value \$34.99), Lightwave 7 (retail value \$795.00), MS Windows 2K Datacenter (retail value \$26,000.00), and MS Office XP 2003 (retail value \$579.00).

From approximately January 2002 through May 2003, Ponce De Leon received via Paypal and converted to his own benefit approximately \$192,000.00 in payments from persons purchasing the pirated software and video games, described above. The total retail value of all pirated sales for the titles reflected in the undercover purchases and other identical title sales as documented in customer payment records totaled \$1,154,395.85.

In announcing the sentence, U.S. Attorney Wainstein, Assistant Attorney General Fisher, Assistant Director in Charge Mason, and Special Agent in Charge Doody commended the work of FBI Special Agent Stephen K. Schmidt and Supervisory Special Agent Christopher W. Hinkle, ICE Senior Special Agent Michael R. Godfrey and Special Agent Dawn Gabel, and the staff of the U.S. Attorney's Office, including Legal Assistant Lisa Robinson and Assistant U.S. Attorney Sherri L. Schornstein and Christopher Merriam, Trial Attorney, U.S. Department of Justice Computer Crime and Intellectual Property Section, who prosecuted the case. They also thanked the following industry trade associations for their assistance: Business Software Alliance, Entertainment Software Association, and the Software and Information Industry Association.

ICE

U.S. Immigration and Customs Enforcement was established in March 2003 as the largest investigative arm of the Department of Homeland Security. ICE is comprised of five integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities.